

Message

## ENVIRONMENT & ENERGY REPORT

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Report Highlights

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## Highlights

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### IN CASE YOU MISSED IT: THIS WEEK'S INSIGHTS

#### INSIGHT: EPA Enforcement Curbs Shouldn't Translate to Less Compliance, Unless ...

By Ronald Farley and Schuyler Espy

A recent report and statements from the U. S. Environmental Protection Agency indicate that its enforcement actions, as reflected by the amount of assessed civil penalties, have dropped substantially during the first two years of the Trump administration. The number of EPA enforcement inspections has also dropped.

#### INSIGHT: Confusion Deepens Over WOTUS; Congress Eyes 'Navigable' Meaning

By Paul Beard

Until recently, the Trump administration has been fighting on multiple fronts to do away with the 2015 Waters of the U.S. (WOTUS) Rule, promulgated by the Environmental Protection Agency and the U.S. Army Corps of Engineers during the Obama administration. The WOTUS Rule arguably expands the categories of water features that qualify as “waters of the United States,” over which the agencies can assert jurisdiction under the Clean Water Act.

### **INSIGHT: Carbon Markets Beyond 2020: Achieving Breakthrough on Paris Agreement**

By Daniel Rossetto

The Earth is heating up, and so is the consensus that more needs to be done about it.

### **INSIGHT: What Makes a Great Expert Witness? Look for the Four C's**

Expert witnesses are key in the courtroom, as more complicated disputes need clear explanation to a jury. But, there's little agreement on what makes a great witness. GLG Law's David Solomon gives four characteristics to look for—clear communication, coachability, confidence, and candor.

### **INSIGHT: Former DOJ Prosecutor Back in BigLaw Shares Tips to Help Clients**

Morgan Lewis's Zane David Memeger, former U.S. Attorney for the Eastern District of Pennsylvania, shares tips for how attorneys "switching hats" from public to private practice can better understand and help their clients.

## **THIS WEEK AT THE EPA**

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### **Reshuffle of EPA Regional Offices to Take Effect on Tax Day**

By Abby Smith

The EPA's restructuring of its 10 regional offices will formally take effect April 15, Administrator Andrew Wheeler said April 8 during remarks at the Environmental Council of the States spring meeting in Arlington, Va.

## EPA's Focus Must Be Hiring, Not Reorganizing, Sen. Udall Says

By Abby Smith

Trump EPA officials should focus more resources on filling vacant positions at the agency rather than reshuffling offices for the sake of efficiency, the top Democrat on the Senate panel overseeing EPA's budget says.

## **THIS WEEK IN ENERGY AND NATURAL RESOURCES**

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### Rare Whale Listed as Endangered in Gulf of Mexico

By Stephen Lee

The National Marine Fisheries Service added a rare whale to the endangered species list April 12, in a move that could put restrictions on companies that want to drill for oil and gas in certain parts of the Gulf of Mexico.

### Lawmakers Demand Action on Unfinished Pipeline Safety Rules (1)

By Sylvia Carignan

The head of the Pipeline and Hazardous Materials Safety Administration is facing increasing pressure from lawmakers to bolster safety regulations as the number of deadly and destructive gas pipeline incidents increases.

### Trump Plan to Ship Natural Gas by Rail Stokes 'Bomb Train' Fears

By Jennifer A. Dlouhy

President Donald Trump wants to allow natural gas to be shipped in railroad cars, a move that would open new markets hungry for the fuel but could risk catastrophic accidents if one were to derail.

### Shrinking Environmental Statements Challenge Wind Regulators

By Bobby Magill

Meeting Interior Department and President Donald Trump's orders to "streamline" federal environmental reviews of offshore wind projects will be a "huge challenge" for regulators, a federal official said April 10.

### **New Offshore Wind Development Regulations Expected in 2019**

By Bobby Magill

The Trump administration will propose a series of regulatory changes later this year to boost offshore wind development off the Atlantic and Pacific coasts, the Bureau of Ocean Energy Management's acting director said April 9.

### **EPA Says It Won't Second Guess State Audits of Oil Firms**

By Amena H. Saiyid and Abby Smith

The EPA isn't going to second guess state-led audits of new owners of oil and gas drilling sites if the audits are on par with federal requirements, the agency told state regulators April 8.

### **Senate Confirms David Bernhardt to Lead Interior Department**

By Catherine Dodge and Jennifer A. Dlouhy

The Senate confirmed David Bernhardt on April 11 to be secretary of the Interior, putting a former energy and natural resources lobbyist in charge of the agency that oversees drilling, grazing and other activities on public land and in federal waters.

## **THIS WEEK IN CHEMICALS**

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### **EPA Proposes to Simplify Chemical Reporting Rules for Industry**

By Steven Gibb

EPA is proposing to simplify companies' reporting of chemical production, import, and use data to the agency.

### **EPA 'Can't Do' Green Chemistry, Agency Official Says**

By Pat Rizzuto

Research on designing chemicals that produce less waste, use less energy, and are safer is being cut at the EPA to increase the focus on chemical recycling and disposal.

### **EPA Wants Chemical Makers to Show Their Work on Secret-Keeping**

By Pat Rizzuto

Chemical manufacturers and processors would have to follow specific electronic procedures that detail their rationales for keeping secret the identity of chemicals they make or handle under an April 10 EPA proposal.

### **Judge Orders Bayer to Pursue Talks in Roundup Cancer Litigation**

By Joel Rosenblatt

A U.S. judge ordered Bayer AG to pursue mediation with plaintiffs claiming that its Roundup weedkiller causes cancer, asking the company to try to settle lawsuits that have wreaked havoc on its share price.

### **States Brace for Battle With EPA Over Pesticide Label Rules**

By Adam Allington

State pesticide regulators are concerned the Environmental Protection Agency is angling to reduce their ability to impose additional restrictions on pesticides in their states.

### **EPA to List Nonstick Toxics as Hazardous Substances This Year (1)**

By Amena H. Saiyid

The EPA for the first time plans to list ubiquitous nonstick chemicals as hazardous substances under the nation's Superfund law by year's end, the agency's top drinking water official said April 9.

## U.S. Agriculture Secretary Blasts Vietnam Over Glyphosate Ban (1)

By Pat Rizzuto and Adam Allington

Agriculture Secretary Sonny Perdue said Vietnam's decision to ban glyphosate-based weedkillers will harm agriculture globally.

### **THIS WEEK IN AIR, WATER, AND WASTE**

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## Green Groups Win Challenge to Power Plant Rule Exemptions

By Mike Leonard

The Environmental Protection Agency must rewrite power plant pollution rules that included a grandfather clause for most runoff streams generated before a still-undetermined future cutoff date.

## EPA May Have Tipped Hand on Weakening Washington Water Rule

By Tripp Baltz

The Environmental Protection Agency erroneously published a proposal that would make changes to Washington state's clean water rule, raising the alarm of the state's top environmental official and several conservation groups.

## Trump is 'Fair-Weather Federalist' on Environment, Critics Say

By David Schultz

President Donald Trump's new executive orders to streamline oil and gas pipeline projects could strip states of some authority on water and energy issues, leading some to question whether the administration's oft-stated "cooperative federalism" principle is actually "convenient federalism" or "fair-weather federalism."

## Water Utility Emergency Planning Now More Frequent, Intense

By David Schultz

Emergency planning is getting more complicated, more intense, and more frequent for the companies and municipalities that provide drinking water across the country.

### **Newer Water Programs Can Better Fund Projects, EPA Head Says**

By Abby Smith

The head of the Environmental Protection Agency defended Trump administration proposed cuts to a popular drinking water loan program, arguing newer agency programs can better address pollution issues.

### **'Three Strikes' Policy Helps EPA Cut Permit Backlog 40 Percent**

By Amena H. Saiyid

A new "three strikes" policy has helped the EPA cut by 40 percent its backlog of air, water, and waste permit applications that are six months old or more, a top agency official said April 8.

### **EPA Gives GE Nod on Hudson River Cleanup—For Now (1)**

By John Herzfeld

General Electric Co. got a long-awaited decision from the EPA that the company has finished its cleanup of chemical contamination of the Hudson River—for now.

### **New York Plans to Sue EPA Over Smog From Upwind States**

By John Herzfeld

New York plans to sue the EPA after waiting months for a response to a March petition seeking a crackdown on ozone pollution from nine upwind states.

## **THIS WEEK IN CLIMATE**

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### **Senate Energy Panel Duo Wants to Craft Carbon Capture 'Moonshot'**

By Abby Smith

The Energy Department's carbon capture research programs could undergo a major tuneup if the Senate energy committee's bipartisan duo has its way.

### California Dam Climate Change Case Revived

By Emily C. Dooley

Concerns about climate change and wildlife near a hydroelectric facility at a California dam will get another look after the California Supreme Court in San Francisco ordered an appellate review April 10.

### Carbon Capture, Diesel Reduction Bills Sail Through Senate Panel

By Abby Smith and Amena H. Saiyid

Bills boosting carbon capture technology and reviving grants to retrofit dirty diesel engines were approved by the Senate Environment and Public Works Committee without any opposition.

## **THIS WEEK FROM THE STATES**

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### Coachella Valley Wants Five More Years to Meet Ozone Rules (1)

By Emily C. Dooley

On the same day that Childish Gambino helped kick off the Coachella Valley Music and Arts Festival in California, the local air district there said it needs five more years to meet federal ozone standards.

### California Offshore Wind Farms Likely A Decade-Plus Away

By Bobby Magill

The first offshore wind farm off the California coast is likely at least seven years away because the industry is still grappling with the technical challenges of building floating wind farms in deep water, industry analysts said April 10.

### Divisive Compromise Gets OK in Napa's Water-Wine Fight

By Joyce E. Cutler

A proposal to enact Napa County woodland and watershed protections that's divided the wine industry spent two years in the barrel and now is law in the California county.

## **New York City to Eliminate Most Single-Use Plastic Food Ware (1)**

By Keshia Clukey

New York City will reduce its purchases of single-use plastic straws, cutlery, plates, and cups by 95 percent, according to an executive order signed April 11 by Mayor Bill de Blasio (D).

## **Animal Manure Blamed for Rising Pollution in Lake Erie Watershed**

By Alex Ebert

An "explosion" of animal manure production in a Lake Erie watershed may be contributing to increased phosphorus pollution, an environmental group says in a new report.



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